

REMARKS

The Office has required restriction in the present application as follows:

- Group I: Claims 1, 2, 3, 4, 13 and 14, drawn to protein comprising the amino acid sequence of SEQ ID NO: 8, DNA encoding the protein comprising the amino acid sequence of SEQ ID NO: 8 and DNA comprising a nucleotide sequence coding for a fusion protein having the amino acid sequence of SEQ ID NO: 8, SEQ ID NO: 9, and SEQ ID NO: 10;
- Group II: Claims 5, 6, 7, 8, drawn to a protein comprising the amino acid sequence of SEQ ID NO: 9, DNA encoding the protein comprising the amino acid sequence of SEQ ID NO: 9; and
- Group III: Claims 9, 10, 11, 12, drawn to protein comprising the amino acid sequence of SEQ ID NO: 10, DNA encoding the protein comprising the amino acid sequence of SEQ ID NO: 10.

Applicants elect, with traverse, Group II, Claims 5, 6, 7, 8, drawn to a protein comprising the amino acid sequence of SEQ ID NO: 9, DNA encoding the protein comprising the amino acid sequence of SEQ ID NO: 9.

The Examiner, citing PCT Rule 13.1 and 13.2, contends that a lack of unity exists between Groups I-III, because these groups do not share a common special technical feature. However, Applicants traverse that Restriction Requirement on the grounds that the Office has not applied the same standard of unity of invention as the International Preliminary Examination Authority (see copy appended herewith). The Authority did not take the position that unity of invention was lacking in the International application and examined all claims together. Applicants note that PCT Article 27(l) states:

No national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations.

Moreover, Applicants respectfully traverse on the grounds that the Office has not shown that a burden exists in searching the entire application.

MPEP in §803 states as follows:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. In fact, the International Searching Authority has searched all of the claims together.

For the reasons set forth above, Applicants contend that the Restriction Requirement is improper and should be withdrawn.

Finally, regarding the objection to the amendment of the specification under 35 U.S.C. §132 as introducing new matter, Applicants note that this objection is moot in view of the amendment hereinabove. Applicants request withdrawal of this ground of objection.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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